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NO. 7159 P. 12/15

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Atty. Dkt. No. 027209-1101

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1 and 41 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-42 remain pending in this application.

Request for Withdrawal of Finality of Office Action

Applicant respectfully requests that the finality of the office action be withdrawn. Applicant respectfully notes that, in response to the Final Office Action dated May 3, 2006, Applicant filed a Request for Continued Examination (RCE) on October 17, 2006, along with a reply to the Final Office Action. The present Office Action is a first action since the filing of the RCE and, accordingly, should be a non-final Office Action. Accordingly, the finality of the office action should be withdrawn.

Claim Rejections

Claims 1-42 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,872,890 to Lacombe (hereinafter "Lacombe"). Applicant respectfully traverses this rejection for at least the following reasons.

Embodiments of the present application are directed to heating device with a temperature sensor located in the heater. The temperature sensor is positioned in the heater, as exemplarily illustrated in Figure 3. By positioning the temperature sensor in the heater, the sensor is better able to detect overheating before a dry-run condition occurs. To clarify this feature, Applicant

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has amended claim 1 to recite that "the heater has a sleeve and the fluid flows outside the sleeve" with a "temperature sensor positioned inside the sleeve." Support for this feature is found in the originally filed specification in paragraph [0081] and Figure 3. Independent claim 41 has been similarly amended.

LaCombe fails to teach or suggest at least this feature. To the contrary, LaCombe illustrates a sheath 37 forming the exterior cylindrical surface of the heater element 13. See LaCombe, col. 3, lines 43-44. No sensors are positioned within the sheath 37. Rather, LaCombe discloses positioning of the thermistor elements 116 and 117 on either side of the heated heater element. As clearly illustrated by the figures and description of LaCombe, the thermistor elements 116, 117 are not positioned inside the sheath 37. See e.g., LaCombe, col. 6, lines 7-10. Nowhere does LaCombe teach or suggest a temperature sensor positioned within a sleeve or a sheath.

Since LaCombe fails to teach or suggest a temperature sensor positioned in the heater, as recited in independent claims 1 and 41, claims 1 and 41 are patentable. Further, claims 2-40 depend from allowable claim 1, and claim 42 depends from allowable claim 41. Dependent claims 2-40 and 42 are patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper

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or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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